

## CHAPTER 1053

### CIVIL ACTIONS AFFECTING REAL ESTATE

H.F. 2370

AN ACT relating to civil actions relating to real estate, including mortgage foreclosure actions.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 617.11, Code 2011, is amended to read as follows:

#### **617.11 Lis pendens.**

1. ~~When so indexed said action~~ When a petition or municipal infraction citation affecting real estate is indexed pursuant to section 617.10, either action shall be considered pending so as to charge all third persons with notice of its pendency, and while pending no interest can be acquired by third persons in the subject matter thereof as against the plaintiff's rights.

2. If a claim of interest against the property is acquired prior to the indexing of a petition affecting real estate and filed by anyone other than a city and such claim is not indexed or filed of record prior to the indexing of the petition, it is subject to the pending action as provided in subsection 1, unless any of the following occurs:

a. The claimant intervenes in the pending action prior to entry of judgment.

b. The claimant, prior to transfer of an interest in the property to a bona fide third-party transferee, records an affidavit showing that the party seeking relief under the pending action had, prior to the indexing of the petition, actual notice of the claim of interest and of the identity of the claimant.

3. If a claim of interest against the property is acquired prior to the indexing of a petition or municipal<sup>1</sup> citation affecting real estate and filed by a city and such claim is not indexed or filed of record prior to the indexing of the petition or citation, it is subject to the pending action as provided in subsection 1, unless either of the following occurs:

a. The claimant intervenes in the pending action and obtains relief from the court prior to entry of judgment.

b. Within ninety days after entry of judgment, the claimant files an application to reopen a petition or municipal infraction citation affecting real estate and filed by a city and proves at the hearing on the application that the claimant is entitled to relief because the city had actual notice of the claim of interest and of the identity of the claimant prior to the indexing of the petition or citation.

4. Subsections 2 and 3 shall not apply to a mechanic's lien filed pursuant to chapter 572 or to a person who has taken possession of the property for value prior to the indexing of the petition or citation.

Sec. 2. Section 654.4A, unnumbered paragraph 1, Code 2011, is amended to read as follows:

In addition to any other form of service authorized by law, where in rem relief is the only relief requested in a foreclosure action or nonjudicial foreclosure under section 654.18 or chapter 655A against either a party or a person to be served with a notice pursuant to section 654.15B, all of the following shall apply:

Sec. 3. Section 654.18, subsection 1, paragraph e, Code 2011, is amended to read as follows:

e. (1) The mortgagee shall send by certified mail a notice of the election to all junior lienholders as of the date of the conveyance under paragraph "a", stating that the junior lienholders have thirty days from the date of mailing to exercise any rights of redemption. The notice may also be given in the manner prescribed in section 656.3 in which case the junior lienholders have thirty days from the completion of publication to exercise the rights of redemption.

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<sup>1</sup> See chapter 1138, §76 herein

(2) In addition to any other form of service authorized by law, service of process in an alternative nonjudicial voluntary foreclosure procedure filed pursuant to this section where in rem relief is the only relief requested shall be served in the manner provided in section 654.4A.

Sec. 4. Section 655A.3, subsection 1, paragraph b, Code 2011, is amended to read as follows:

b. The notice shall contain the following in capital letters of the same type or print size as the rest of the notice:

WITHIN THIRTY DAYS AFTER YOUR RECEIPT OF THIS NOTICE, YOU MUST EITHER CURE THE DEFAULTS DESCRIBED IN THIS NOTICE OR FILE WITH THE RECORDER OF THE COUNTY WHERE THE MORTGAGED PROPERTY IS LOCATED A REJECTION OF THIS NOTICE AND SERVE A COPY OF YOUR REJECTION ON THE MORTGAGEE IN THE MANNER PROVIDED BY THE RULES OF CIVIL PROCEDURE FOR SERVICE OF ORIGINAL NOTICES IN SECTION 655A.4. IF YOU WISH TO REJECT THIS NOTICE, YOU SHOULD CONSULT AN ATTORNEY AS TO THE PROPER MANNER TO MAKE THE REJECTION.

IF YOU DO NOT TAKE EITHER OF THE ACTIONS DESCRIBED ABOVE WITHIN THE THIRTY-DAY PERIOD, THE FORECLOSURE WILL BE COMPLETE AND YOU WILL LOSE TITLE TO THE MORTGAGED PROPERTY. AFTER THE FORECLOSURE IS COMPLETE THE DEBT SECURED BY THE MORTGAGED PROPERTY WILL BE EXTINGUISHED.

Sec. 5. Section 655A.4, Code 2011, is amended to read as follows:

**655A.4 Service.**

Notice under this chapter shall be served as provided in the rules of civil procedure for service of original notice or as provided in section 654.4A. Rejection of notice under this chapter shall be served by ordinary or electronic mail addressed as provided in the notice, or if no address is provided, to the last address of the mortgagee known to the mortgagor.

Approved April 4, 2012